



General Assembly

January Session, 2007

**Committee Bill No. 5286**

LCO No. 5381

\*05381HB05286INS\*

Referred to Committee on Insurance and Real Estate

Introduced by:  
(INS)

**AN ACT CONCERNING INSURANCE ON RESIDENTIAL  
CONDOMINIUMS AND FLOOD INSURANCE FOR CONDOMINIUMS  
LOCATED IN FLOOD HAZARD AREAS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 47-255 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) Commencing not later than the time of the first conveyance of a  
4 unit to a person other than a declarant, the association shall maintain,  
5 to the extent reasonably available: (1) Property insurance on the  
6 common elements and, in a planned community, also on property that  
7 must become common elements, insuring against all risks of direct  
8 physical loss commonly insured against or, in the case of a conversion  
9 building, against fire and extended coverage perils. The total amount  
10 of insurance after application of any deductibles shall be not less than  
11 eighty per cent of the actual cash value of the insured property at the  
12 time the insurance is purchased and at each renewal date, exclusive of  
13 land, excavations, foundations and other items normally excluded  
14 from property policies; and (2) liability insurance, including medical  
15 payments insurance, in an amount determined by the executive board

16 but not less than any amount specified in the declaration, covering all  
17 occurrences commonly insured against for death, bodily injury and  
18 property damage arising out of or in connection with the use,  
19 ownership or maintenance of the common elements and, in  
20 cooperatives, also of all units. The amount of any deductible on any  
21 property and liability insurance maintained by the association is a  
22 common expense.

23 [(b) In the case of a building that is part of a cooperative or that  
24 contains units having horizontal boundaries described in the  
25 declaration, the insurance maintained under subdivision (1) of  
26 subsection (a) of this section, to the extent reasonably available, shall  
27 include the units, but need not include improvements and betterments  
28 installed by unit owners.]

29 [(c)] (b) If the insurance described in [subsections (a) and (b)]  
30 subsection (a) of this section is not reasonably available, the association  
31 promptly shall cause notice of that fact to be hand-delivered or sent  
32 prepaid by United States mail to all unit owners. The declaration may  
33 require the association to carry any other insurance, and the  
34 association in any event may carry any other insurance it considers  
35 appropriate to protect the association or the unit owners.

36 [(d)] (c) Insurance policies carried pursuant to [subsections (a) and  
37 (b)] subsection (a) of this section shall provide that: (1) Each unit owner  
38 is an insured person under the policy with respect to liability arising  
39 out of his interest in the common elements or membership in the  
40 association; (2) the insurer waives its right to subrogation under the  
41 policy against any unit owner or member of his household; (3) no act  
42 or omission by any unit owner, unless acting within the scope of his  
43 authority on behalf of the association, will void the policy or be a  
44 condition to recovery under the policy; and (4) if, at the time of a loss  
45 under the policy, there is other insurance in the name of a unit owner  
46 covering the same risk covered by the policy, the association's policy  
47 provides primary insurance.

48     ~~[(e)]~~ (d) Any loss covered by the property policy under subdivision  
49     (1) of subsection (a) ~~[and subsection (b)]~~ of this section shall be  
50     adjusted with the association, but the insurance proceeds for that loss  
51     are payable to any insurance trustee designated for that purpose, or  
52     otherwise to the association, and not to any holder of a security  
53     interest. The insurance trustee or the association shall hold any  
54     insurance proceeds in trust for the association, unit owners and lien  
55     holders as their interests may appear. Subject to the provisions of  
56     subsection ~~[(h)]~~ (g) of this section, the proceeds shall be disbursed first  
57     for the repair or restoration of the damaged property, and the  
58     association, unit owners and lien holders are not entitled to receive  
59     payment of any portion of the proceeds unless there is a surplus of  
60     proceeds after the property has been completely repaired or restored,  
61     or the common interest community is terminated.

62     ~~[(f)]~~ (e) An insurance policy issued to the association does not  
63     prevent a unit owner from obtaining insurance for his own benefit.

64     ~~[(g)]~~ (f) An insurer that has issued an insurance policy under this  
65     section shall issue certificates or memoranda of insurance to the  
66     association and, on written request, to any unit owner or holder of a  
67     security interest. The insurer issuing the policy may not cancel or  
68     refuse to renew it until sixty days after notice of the proposed  
69     cancellation or nonrenewal has been mailed to the association, each  
70     unit owner and each holder of a security interest to whom a certificate  
71     or memorandum of insurance has been issued at their respective last  
72     known addresses.

73     ~~[(h)]~~ (g) (1) Any portion of the common interest community for  
74     which insurance is required under this section which is damaged or  
75     destroyed shall be repaired or replaced promptly by the association  
76     unless (A) the common interest community is terminated, in which  
77     case section 47-237 applies, (B) repair or replacement would be illegal  
78     under any state or local statute or ordinance governing health or  
79     safety, or (C) eighty per cent of the unit owners, including every owner

80 of a unit or assigned limited common element that will not be rebuilt,  
81 vote not to rebuild. The cost of repair or replacement in excess of  
82 insurance proceeds and reserves is a common expense. (2) If the entire  
83 common interest community is not repaired or replaced, (A) the  
84 insurance proceeds attributable to the damaged common elements  
85 shall be used to restore the damaged area to a condition compatible  
86 with the remainder of the common interest community, and (B) except  
87 to the extent that other persons will be distributees, (i) the insurance  
88 proceeds attributable to units and limited common elements that are  
89 not rebuilt shall be distributed to the owners of those units and the  
90 owners of the units to which those limited common elements were  
91 allocated, or to lien holders, as their interests may appear, and (ii) the  
92 remainder of the proceeds shall be distributed to all the unit owners or  
93 lien holders, as their interests may appear, in proportion to the  
94 common expense liabilities of all the units. (3) If the unit owners vote  
95 not to rebuild any unit, that unit's allocated interests are automatically  
96 reallocated on the vote as if the unit had been condemned under  
97 subsection (a) of section 47-206, and the association promptly shall  
98 prepare, execute and record an amendment to the declaration  
99 reflecting the reallocations.

100 [(i)] (h) The provisions of this section may be varied or waived in  
101 the case of a common interest community all of whose units are  
102 restricted to nonresidential use.

103 Sec. 2. Section 47-83 of the general statutes is repealed and the  
104 following is substituted in lieu thereof (*Effective October 1, 2007*):

105 The declarant and the association of unit owners, by its board of  
106 directors, manager or other authorized agent shall, without prejudice  
107 to the right of each unit owner to insure his own unit for his own  
108 benefit, obtain for the condominium the following forms of insurance:  
109 (1) A master policy affording fire, extended coverage and additional  
110 perils in an amount sufficient for repair or replacement of the  
111 buildings and improvements, or portions of the buildings and

112 improvements that in whole or in part comprise the common elements,  
113 with reasonable deductibles and coinsurance clause as the board of  
114 directors deems appropriate; and (2) a liability master policy, in an  
115 amount specified by the condominium instruments, covering the unit  
116 owners' association, the board of directors, the managing agent, if any,  
117 all persons acting or who may come to act as agents or employees of  
118 the foregoing, and all unit owners and other persons entitled to occupy  
119 any unit or other portion of the condominium. The declarant and the  
120 association, by its board of directors, the managing agent or other  
121 authorized agent, [may] shall obtain such other policies as may be  
122 required or authorized by the condominium instruments, or as the unit  
123 owners may by vote direct, including, without limitation, workers'  
124 compensation insurance, liability insurance on motor vehicles owned  
125 by the association and nonowned and rented vehicles, officers' and  
126 directors' indemnity policies, flood insurance in the event the  
127 condominium is located in a flood hazard area, as defined and  
128 determined by the National Flood Insurance Act, as amended (USC 42  
129 Section 4101, P.L. 93-234), and specialized policies covering lands or  
130 improvements in which the unit owners' association has or shares  
131 ownership or other rights. When any policy or instrument has been  
132 obtained by or on behalf of the declarant or the unit owners'  
133 association, written notice thereof and of any subsequent changes in  
134 values or limits therein or termination thereof shall be promptly  
135 furnished to each unit owner. All insurance coverage obtained for the  
136 condominium under this section shall be written in the name of the  
137 association of unit owners, for the benefit of each of the unit owners  
138 and their mortgagees as their interests may appear in the percentages  
139 of their undivided interest in the common elements established in the  
140 condominium instruments. Premiums shall be common expenses.  
141 Losses may be made payable to a trustee for restoration or distribution  
142 for the benefit of such unit owners and mortgagees as their interest  
143 may appear.

This act shall take effect as follows and shall amend the following sections:		
---	--	--

Section 1	<i>October 1, 2007</i>	47-255
Sec. 2	<i>October 1, 2007</i>	47-83

***Statement of Purpose:***

To require that a deductible on any insurance policy maintained by the association be a common expense, and to protect condominium owners who live in designated flood zones from property damage in case a flood occurs by requiring unit owners to vote on the maintenance of flood insurance.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*

Co-Sponsors: REP. MEGNA, 97th Dist.; REP. HARKINS, 120th Dist.

H.B. 5286, 5260